

MAINE STATE HARNESS RACING COMMISSION
MINUTES OF MEETING
JUNE 30, 2020
HELD ONLINE VIA ZOOM APPLICATION

Commission Members Present: Michael Timmons, William McFarland, James Kelley, Jr., Edward Kelleher, and Richard Shiers

Commission Members Absent: None.

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier, Joy Bonenfant, Miles Greenleaf, Jaime Wood, and Zachary Matzkin

1. **Call the Meeting to Order and Introductions:** Michael Timmons
2. **Consideration of an Emergency Amendments to Chapter 5.** Chapter 5, Section 5 requires that each licensed track submit an annual purse distribution plan to the Commission for approval. In addition, 8 MRS § 272-C requires tracks to return purse funds if they fail to use their assigned race dates. The proposed emergency amendment to Chapter 5 would provide a rational basis for carryover, return and reallocation of purse funds in the event that a track fails to use any or all of its assigned race dates for a particular calendar year

The Commission will consider whether to approve either or both of the proposed amendments on a temporary/emergency basis. The Commission put together a committee who will report back to them regarding a plan. The committee members are Jason Vafiades representing the Maine Standardbred Breeders and Owner's Association, Aaron Hall representing the Maine Harness Horsemen's Association, Jayne Thornton representing the Off-track Betting Facilities, Barry Norris representing the Maine Association of Agricultural Fairs, and Chris McErlean representing Penn National. They added Denise Terry or Michael Sweeney from Scarborough Downs. After a brief discussion, and explanation of the emergency rule, AAG, Guay called the roll.

RECORD OF ROLL CALL VOTE

Motion:

Approve the proposed Emergency Rule Amendment to Chapter 5 and associated basis statement as attached.

Commissioners:

Michael Timmons	NAY
William McFarland	NAY
Richard Shiers	YEA
James Kelley, Jr.	YEA
Edward Kelleher	NOT PRESENT

Motion failed.

3. **Adjudicatory Hearings:**

RE: Request to reopen the 2020 Race Date Assignment Hearing: Bangor Historic Track has requested to reopen the 2020 race date hearing for the purpose of revisiting the 2020 race date awards in light of the impacts that COVID-19 pandemic is having on tracks. AAG, Guay stated you need to reopen. He called the roll.

RECORD OF ROLL CALL VOTE

Motion:

Reopen the 2020 Race Date Proceedings to Change Race Dates for the Month of July 2020 and Reauthorize Race Meets.

Commissioners:

Michael Timmons	YEA
William McFarland	YEA
Richard Shiers	YEA
James Kelley, Jr.	YEA
Edward Kelleher	NOT PRESENT

Motion passed 4-0.

Hearing Officer Guay stated they are looking at July. His recommendation is that they move month by month or 2 weeks by 2 weeks. Do any parties have any objection to him continuing as the presiding officer at this hearing. There were no objections. Chris McErlean of Penn National representing Bangor Raceway stated they will not be able to race its assigned July race dates. They cannot utilize the racing facilities at all. The barn area is opened. They would like to reserve the right to continue to monitor the situation. If they are allowed to race, they would approach the Commission in regard to potential racing dates. Ed MacColl on behalf of the Downs stated the Downs plan is to race at least the number of days that are required to preserve commercial track status around 71. These particular dates that Mr. Sweeney provided are make up days for the specific July dates that they're asking to postpone until the fall meet. Mr. Jennings stated Public Law 2019 Chapter 626 went into effect on June 16th and it changes the definition of a commercial track and at the end it says unless a lesser number of days of racing was conducted in a year due to conditions beyond the control of the racetrack owner or operator as approved by the Commission. He threw that out there to AAG, Guay and Mr. MacColl. He saw that as a remedy to the concern about meeting the statutory minimum for race days for both commercial tracks. Mr. MacColl stated they want to do whatever they can to meet the statutory requirement. Everybody wants Bangor to qualify as a commercial track because they need those slot machines operating and he thinks that's a condition precedent to the slot machines operating in the long run. Mr. McErlean share a similar concern in regard to the minimums. AAG, Guay stated he officially is going on the record to say he is not going to answer that question. Commissioner Timmons asked AAG, Guay to call the roll. AAG, Guay called the roll.

RECORD OF ROLL CALL VOTE

Motion:

Commission authorizes race dates to be changed as follows:

To the extent permitted by Governor's orders, during the month of July in 2020, Davric is authorized to:

- 1) Commencing on July 1, 2020 through July 10, 2020, Race on Mondays, Wednesdays, and Fridays**
- 2) Post times at 1:00 p.m.**
- 3) Run up to 14 dashes per day on each day.**

Additionally:

Davric relinquishes the remaining race dates in July of 2020.

Commission awards make up dates to Davric on 9/2/20, 9/9/20, 9/27/20, 9/30/20, 10/3/20, 10/4/20, 10/7/20, 10/10/20.

This order is verbally adopted and effective upon call of the roll.

Commissioners:

Michael Timmons	YEA
William McFarland	YEA
Richard Shiers	YEA
James Kelley, Jr.	YEA
Edward Kelleher	NOT PRESENT

Motion passed 4-0.

AAG, Guay asked Mr. McErlean if they agree they're relinquishing their July dates. Mr. McErlean stated at this time his question would be if they have any changes in circumstances that may allow them to race in the month of July, do they need to request another dates hearing. AAG, Guay stated that Mr. Jennings has the authority based on the other rule changes. He can ask to open the race dates. He called the roll.

RECORD OF ROLL CALL VOTE

Motion:

Commission authorizes race dates to be changed as follows:

Bangor Historic Track relinquishes its July 2020 race dates.

This order is verbally adopted and effective upon call of the roll.

Commissioners:

Michael Timmons	YEA
William McFarland	YEA
Richard Shiers	YEA
James Kelley, Jr.	YEA
Edward Kelleher	NOT PRESENT

Motion passed 4-0.

4. Other Business

Mr. Jennings stated he and AAG, Guay received an email from Jason Vafiades president of the MSBOA asking for a motion to reconsider the sire stakes schedule for next week. AAG, Guay stated it's up to the Commission whether they wish to take up the reconsideration. Commissioner Kelley stated he's concerned because it wasn't on the agenda. AAG, Guay stated the Commission needs to vote on the reconsideration. He stated Mr. Vafiades sent a request this morning to look at sire stakes awarded and to look at the awards scheduled next week. Mr. Vafiades stated the Board of Directors voted unanimously to ask for the reconsideration for three reasons. 1) A number of the entries are out of state and the emergency order in place those horses can't get here with trainers to quarantine for that first leg. 2) Massachusetts owners can make a daily trip up and back, but they have not been coming to Maine because of the emergency orders in place. 3) There are not a lot of horses that are qualified to race. Commissioner Kelley stated he has a 3 year old and his 3 year old isn't ready either. AAG, Guay asked the Commissioners if they wish to vote to reconsider the decision specifically the dates on July 10th, 8th, and 6th at Scarborough Downs. He called the roll.

RECORD OF ROLL CALL VOTE

Motion:

Approve Sire Stakes Schedule as follows:

3 yr. old trotters July 10, 2020 at Scarborough Downs

3 yr. old filly pacers July 8, 2020 at Scarborough Downs

3 yr. old colt pacers, July 6, 2020 at Scarborough Downs

Commissioners:

Michael Timmons	NAY
William McFarland	YEA
Richard Shiers	YEA
James Kelley, Jr.	NAY
Edward Kelleher	NOT PRESENT

Motion failed 2-2.

Steven Wilson stated doesn't Mr. Kelley have to recuse himself being a participant. AAG, Guay stated so would you like to make a motion that Mr. Kelley recuse himself. Commissioner Kelley stated he would not voluntarily recuse himself. AAG, Guay asked Mr. Wilson why Commissioner Kelley should be recused. Mr. Wilson stated Mr. Kelley should not have a vote as he is a participant in the Maine Sire Stakes Program as an owner. Commissioner Shiers stated he'd like it to be known that Commissioner Kelley stated that he did not have an entry in any of these races at Scarborough. AAG, Guay asked if anybody else would like to be heard. Hearing none, he called the roll.

RECORD OF ROLL CALL VOTE

Do you vote to recuse Commissioner Kelley from the vote on reconsideration?

Commissioners:

Michael Timmons	NAY
William McFarland	NAY
Richard Shiers	NAY

Commissioner Kelley is still a vote.

AAG, Guay called the roll on the reconsideration again.

Commissioners:

Michael Timmons	NAY
William McFarland	YEA
Richard Shiers	YEA
James Kelley, Jr.	NAY

Motion failed 2-2.

9. Public Comment

Beth Graffam stated they weren't able to qualify their stakes horses because the fields were already full. Mr. Cobbett from Scarborough Downs stated they will do qualifiers for 3 year old stakes horses on Friday. To accommodate people, they can only do 4 qualifying races after live because it stresses out the paddock and they cannot accommodate that. There was a further discussion regarding qualifying stake horses with Michael Graffam, Gary Mosher and William Childs. Dennis Foss, Carolyn Corso, and Justin Stygles all agree to have stake races now.

Commissioner Timmons stated Scarborough Downs is doing their best. We're in a difficult spot. We're all trying to work together. Work out your differences.

Mr. Norris stated to help the industry and it's his understanding that Skowhegan has withdrawn their fair dates. Is that correct? Commissioner Timmons stated yes, they have.

Mr. Norris stated he has a proposal to help the industry to give \$5,000 to each OTB to get them up and running to meet the COVID requirements. Mr. Jennings stated they need to look at the whole industry. Mr. Norris stated the committee will report back by July 7th.

AAG, Guay stated the committee's idea should have legal review.

There was a discussion on the qualifying standards. AAG, Guay stated by not voting you keep the rule in place. The Commissioners agreed to leave it the way it is.

10. Schedule of Future Meetings:

11. Adjourn

Commissioner Timmons made a motion to adjourn. Commissioner Kelley seconded.

12:55 p.m.